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REVIEWS.

We are informed that Professor J. B. Thayer will publish in August a second edition of his "Cases on Evidence," which will be used in the Law School next year. It is expected to be of about the same size as the present edition, but will have considerable changes in the way of rearrangement and the selection of cases. The general scheme of the book will continue the same.

A TREATISE ON THE LAW OF WILLS. By H. C. Underhill. In two volumes. Chicago: T. H. Flood and Company. 1900. pp. cxlii, 698, xvi, 699-1501.

With the many editions issued of the works of Jarman and Theobald, Williams on Executors, Woerner on Administration, and others, the field of the present treatise seems to be well occupied. A new book upon the subject of wills must necessarily cover ground that has been thoroughly tilled by others. In view of the constant multiplication of decisions upon so broad a topic, however, a painstaking author can perform valuable service in bringing the authorities down to date, and this Mr. Underhill has accomplished.

The first of the two volumes comprising this work is devoted to a consideration of the rules of substantive law governing the execution and revocation of wills, payment and satisfaction of legacies, etc. The second volume deals chiefly with questions of construction.

The general style of the work is clear and direct, dealing briefly with each proposition considered. Valuable as are the full collections of authorities, it is to be regretted that the author has not applied himself to a fuller discussion of principles, instead of limiting himself to merely stating them. As a result, he has sometimes failed to bring out the full effect of the principles which he lays down. For example, the leading case of *Allen v. McPherson*, 1 H. L. C. 191, is cited (and apparently this is the only time it is cited), the last of a number of cases in a note at page 224, for the proposition that where only a part of a will has been affected by undue influence, probate will be decreed of the rest. It would have been as well to point out the broader scope of the decision, namely, that fraud in inducing a certain testamentary state of mind is not relievable in equity, but is ground for the court which decides upon the *factum* of the will to refuse probate. Again, some important cases have been entirely omitted. *Doe d. Gord v. Needs*, 2 M. & W. 129, admitting direct statements of testator's intention to explain an equivocation apparent upon the face of a will, does not seem to be cited anywhere, although at page 1398 the subject of "patent and latent ambiguities" is discussed. But in many other instances no such objection can be raised. For instance, the question of undue influence, where the testator and the beneficiary stand in confidential or unlawful relations to each other, is treated at length. So the construction of certain words of common occurrence — such as "heirs," "children," "issue" — is considered in a manner which exhausts the cases. The Rule in Shelley's case still claims a chapter, although, as appears on page 905, the Rule has been repealed by Stat-

ute in at least twenty-six states. On the whole, the work presents the law on the topics treated by it in a brief and simple manner well calculated to serve the use of the practitioner.

J. I. W.

CASES ON CONSTITUTIONAL LAW. By Emlin McClain. Boston: Little, Brown & Co. 1900. pp. xxxi, 1079.

The announcement in the preface that this collection of cases is based on Judge Cooley's *Principles of Constitutional Law* somewhat disarms criticism of its plan. It will serve admirably as a supplement to Judge Cooley's book and should receive a ready welcome wherever that is the basis of instruction in Constitutional Law. The two books are alike in arrangement except in unimportant particulars. Professor McClain's cases are well selected, noticeably so in the chapter devoted to the power of the executive, and include the more important recent decisions. The ungrateful but necessary task of selecting portions of the original reports for omission has been accomplished with as little decrease in their value as legal data as could be expected. The difficulty of apportioning a comparatively limited space among many topics is also creditably dealt with, though one is inclined to think that the Admiralty and Maritime jurisdiction of the United States receives undue attention, as compared, for example, with the subject of Eminent Domain. A convenient innovation is found in the table of cases, which includes cases not printed, but cited and fully stated in opinions which are printed.

Without prejudice to the care and ability of which this case book gives every evidence, it is somewhat to be regretted that Professor McClain saw fit to hamper himself with the plan he has adopted. The value of the book for general use seems to be seriously impaired by the division and subdivision to which it has been subjected. Aside from the fact that the rather severe restrictions as to space necessarily render some of the numerous sections entirely inadequate to the requirements of their titles, the arrangement of the book tends to produce a narrow and technical treatment of particular clauses of the Constitution, to which the larger aspects of the subject are likely to be sacrificed. The nature of the judicial function under our constitutions, its political aspects, and the relation of the judiciary to the other departments of government are fundamental conceptions, a grasp of which is essential to the intelligent handling of particular problems. They demand a broad and thorough treatment, and are rather more important to the student than is the accurate classification of cases under particular provisions of the Constitution. The emphasis necessary for the purposes of the average course in Constitutional Law can hardly be laid on them when the subject is carved into as many separate topics as there are clauses in the Constitution.

F. E. H.

We have also received:—

A SELECTION OF CASES AND STATUTES ON THE PRINCIPLES OF CODE PLEADING. By Charles M. Hepburn. Cincinnati: W. H. Anderson & Co. 1900. pp. 160. This is the second installment of a work which, when completed, will amount to some six hundred pages. The first part was reviewed in 13 HARVARD LAW REVIEW, 531. The pages now before us deal chiefly with the interpretation of the general code provision that